

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

XAVIER LISTER
(No. 44947-177),

Plaintiff,

V.

IAN PURDUE, ET AL.,

Defendants.

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No. 3:14-CV-0715-D

ORDER


After making an independent review of the pleadings, files, and records in this case, and the findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted.

In his objections, plaintiff contends that his claims against defendant Craig Watkins (“Watkins”) in his official capacity should not be dismissed, but that, under Fed. R. Civ. P. 25(d), Watkins’ successor should be substituted as a defendant. But as the magistrate judge’s findings, conclusions, and recommendation correctly state, plaintiff has failed to allege any factual allegations specific to Watkins, and, to the extent Watkins is named as a defendant in his former capacity as Dallas County District Attorney, the claim should be summarily dismissed based on absolute prosecutorial immunity. Substituting Watkins’ successor as a defendant in her official capacity would not address these deficiencies.

Plaintiff also requests another opportunity to amend his complaint. But the court has already given plaintiff an opportunity to amend. In fact, it granted the request for leave to amend included in his October 8, 2014 objections to the magistrate judge's initial findings, conclusions, and recommendation. And as for his assertion that he thought the magistrate judge would be sending interrogatories to him regarding his amended complaint, when he requested leave to amend in his October 8, 2014 objections, he clearly represented that, if granted leave to amend, he could "plead [his] civil rights claims with greater particularity, so that Plaintiff, who is proceeding pro se, could cure any deficiencies before plaintiff's claims are summarily dismissed by this court." P. Oct. 8, 2014 Objs. at 26. He suggested no need to supplement his amended complaint with answers to magistrate judge interrogatories.

SO ORDERED.

December 29, 2015.



SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE